



**AMERIND Risk**  
Tribes Protecting Tribes



# BECOMING A TRIBAL PARTNER IN

# DEFAULTS & FORECLOSURE





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# Helping tribes understand the importance of being proactive in defaults and foreclosures

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## The bigger picture:

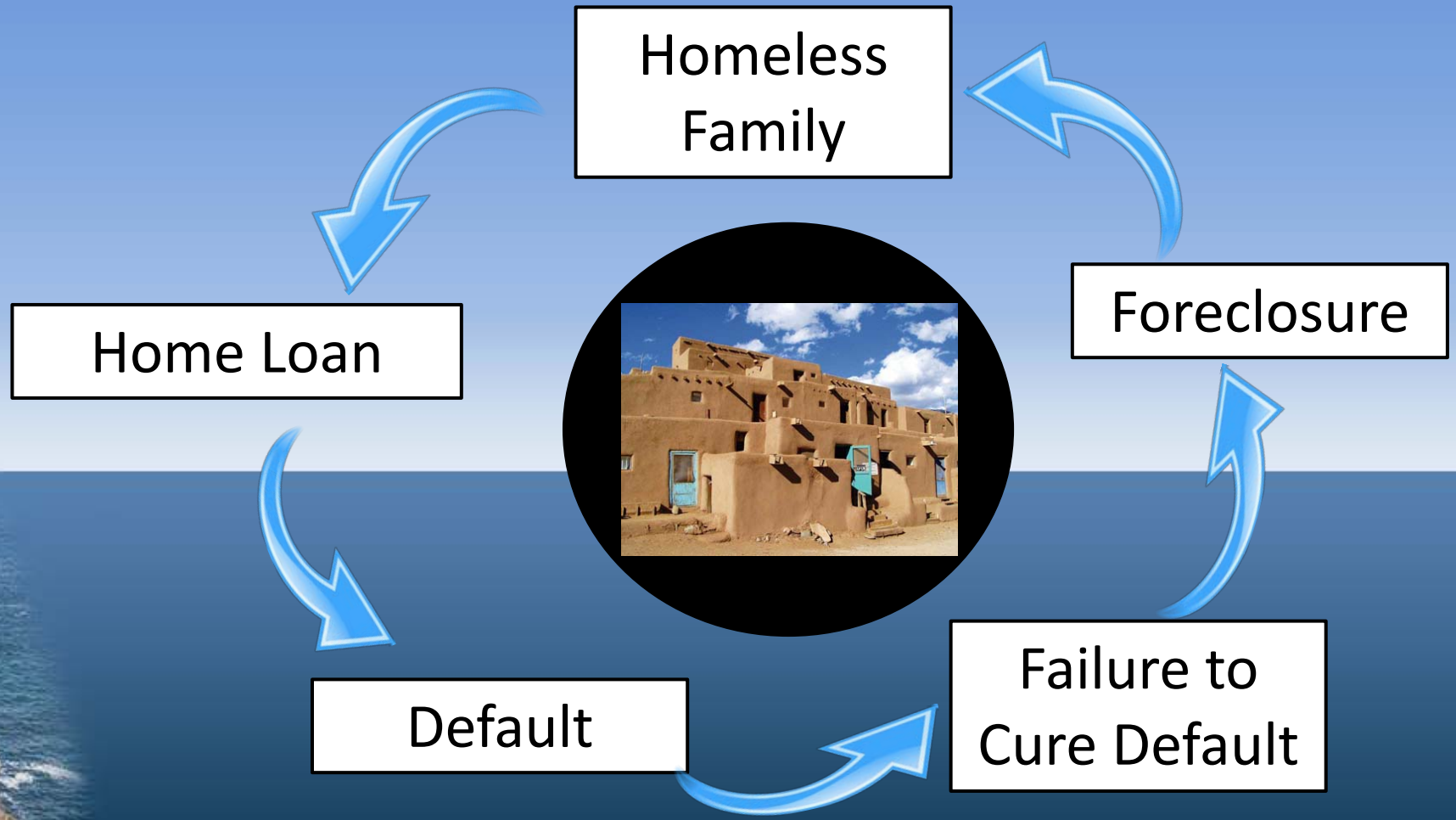
**What does this mean for homeownership and the wellbeing of our communities?**

**Why is this important on a national scale?**

**Why is the timing so right for this discussion?**



**National Native  
Homeownership Coalition**







## PURPOSE OF SESSION

1. To begin the discussion of whether Tribes & TDHEs should get involved when there's a default on tribal lands.
  - And at what point should they get involved; and
  - At what level;
2. To give Tribes and TDHEs the tools they need to make this decision.



# Why Become Involved?

- Statistics on loans on tribal trust lands
  - VA
  - USDA
  - Section 184
  - Fannie Mae
- Prevent vacant homes that are subject to vandalism
- Reduce homelessness (resulting from foreclosure)
- Turn a foreclosed home into a homeownership opportunity for another tribal member
- To protect the integrity of the home loan process for future Native borrowers
- It is an exercise of sovereignty





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# Why Become Involved?

- The Tribe/TDHE is in the best position to get involved
  - Our tribal members
  - Our lands





# Preventing Default at the Onset

- Homebuyer education
  - Making it a requirement
  - Pre purchase
  - Post purchase
- Loan provisions requiring communication with Tribe/TDHE when borrower becomes delinquent
  - Mitigation agreements between lenders & tribes/TDHEs
- Early intervention by Tribe/TDHE/ Counseling agency





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## Lender goals when there is a default

1. Cure the delinquency asap
2. Avoid foreclosure
3. Minimize losses (missed payments, collection costs, attorney fees)



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## The Default Process

- On day 16, lender sends notice of delinquency.
- Process continues for 2-3 months.
- Lender works with borrower who responds to notices on loss mitigation options.
- Lender sends notice to tribe
- Lender accelerates loan
- Pre-foreclosure options
- Valuation of home
- Foreclosure and sale of home





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# The Default Process

Section 184

USDA

VA

Other





# Methods to Assist a Defaulting Borrower

- Before or during purchase of a home
  - Homeownership Education – credit counseling, budgeting, financials
- Post Default (usually day 16 of the month payment is due)
  - Loss mitigation options
    - Repayment plans
    - Forbearance (temporary suspension or reduction of payments)
    - Loan modification
    - Partial claim
    - Debt settlement





## Notice to the Tribe

- When lender getting ready to file foreclosure action (usu. 90 days after the default)
- Tribe given 1<sup>st</sup> right of refusal (to purchase property)
- Food for thought: What if a tribe were notified earlier?
  - Tribe/TDHE could begin communicating with the borrower
  - Tribe could begin looking at available options – assist borrower understand loss mitigation options OR having a family member assume the loan.
  - Tribe could begin process of determining whether it will purchase the home.



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## How Do Lenders Value Defaulted Loans?

Section 184

USDA

VA

Other







# The Foreclosure Process

- Loan acceleration
- Filing of foreclosure
- Judgment
  - Deficiency judgment
    - How do lenders treat deficiency judgments?



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# The Foreclosure Process

Section 184

USDA

VA

Other







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# Property Preservation

- Inspection of Property
- Is property occupied?
- Vacant property
  - Protection from vandalism, weather, etc.





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## Tools Used by Lenders to Help a Defaulting Borrower (Foreclosure Alternatives)

- Assumption of loan by new borrower (family member?)
- Short sale
- Deed in lieu of foreclosure
- Cash for keys
- Other





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# Lender Tools

Section 184	USDA	VA	Other





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## What if tribe/TDHE decides to purchase home?

- What's the process?
- When do I get to exercise this right?
- How much will I have to pay for the home?







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## Where will the money come from?

- IHBG
- Proceeds of sale, program income, non program income
- Tribal grant or loans
- Home mortgage
- Other grant funds



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## What can I do with the home?

- Sell to another tribal member (preferably family member of defaulting borrower)
- TDHE – add to housing inventory & rent lease-purchase
- Sublease to defaulting borrower, another tribal member, or tribal entity





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## BEST PRACTICES

- The Hawaiian example?
- Others?





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# Will you get involved? What do you need to get involved?

If tribes don't plan for defaults and foreclosures on their lands, they may end up making decisions that negatively impact homeownership.





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## RESOURCES

- National Native Homeownership Coalition (NNHC), Center for Indian Country Development, Federal Reserve Bank of Minneapolis

<https://minneapolisfed.org/indiancountry/native-homeownership>

- Other